

Attachment A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA



FILED

Malik Al Mustafa El-Alsamin

AUG 24 2020

Your full name

U.S. DISTRICT COURT-WVND

WHEELING, WV 26003

FEDERAL CIVIL RIGHTS
COMPLAINT
(BIVENS ACTION)

v.

United States of America
Federal Bureau of Prisons
Unit Manager Jones
Health Services Administrator B. Feland
Unknown Correctional officer

Civil Action No.: 5:20-cv-182
(To be assigned by the Clerk of Court)

Enter above the full name of defendant(s) in this action

I. JURISDICTION

This is a civil action brought pursuant to **Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971)**. The Court has jurisdiction over this action pursuant to Title 28 U.S.C. §§ 1331 and 2201.

II. PARTIES

In Item A below, place your full name, inmate number, place of detention, and complete mailing address in the space provided.

Malik Al Mustafa
A. Name of Plaintiff: El-Alsamin Inmate No.: 12826-041
Address: U.S.M.C.F.P. Springfield P.O. Box 4000
Springfield, Missouri 65801-4000

In Item B below, place the full name of each defendant, his or her official position, place of employment, and address in the space provided.

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B. Name of Defendant: United States of America - Federal Bureau of Prisons
 Position: _____
 Place of Employment: 320 First St. N.W.
 Address: 320 First St. N.W.
Washington, D.C. 20534

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: Defendant violated rights under the Eighth Amendment (cruel and unusual punishment) and Fifth Amendment to Due process as well as under the First Amendment

B.1 Name of Defendant: Unknown officer
 Position: Corrections officer - use of force team member
 Place of Employment: U.S.P. Hazelton
 Address: 1640 Skyview Drive
Braxton Mills, WV 26525

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: Unlawfully applied restraints to intentionally cause pain and suffering in violation of the Eighth Amendment.

B.2 Name of Defendant: Health Services Administrator B. Friend
 Position: Health Services Administrator
 Place of Employment: U.S.P. Hazelton
 Address: 1640 Skyview Drive
Braxton Mills, WV 26525

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

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If your answer is "YES," briefly explain: Violated rights under
the Eighth Amendment by failing to have restraints
loosened or removed after noting excessive swelling and
itchiness to my wrists and torso

B.3 Name of Defendant: Federal Bureau of Prisons - Unit manager Jones
Position: Unit Manager
Place of Employment: U.S.P. Hazelton
Address: 1840 Skyview Drive
Buxton Mills, WV 26525

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: By hindering the exhaustion
of administrative remedies by failing to provide form and when
I submitted a handwritten BP-8 on 3-28-19 he failed to
file it thus making the administrative remedy process
"unavailable".

B.4 Name of Defendant: _____
Position: _____
Place of Employment: _____
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

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B.5 Name of Defendant: _____
 Position: _____
 Place of Employment: _____
 Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

III. PLACE OF PRESENT CONFINEMENT

Name of Prison/ Institution: United States Medical Center For Prisoners

A. Is this where the events concerning your complaint took place?
☐ Yes ☒ No

If you answered "NO," where did the events occur?

United States Penitentiary - Hazelton

B. Is there a prisoner grievance procedure in the institution where the events occurred? ☒ Yes ☐ No

C. Did you file a grievance concerning the facts relating to this complaint in the prisoner grievance procedure?
☒ Yes ☐ No

D. If your answer is "NO," explain why not: _____

E. If your answer is "YES," identify the administrative grievance procedure number(s) in which the claims raised in this complaint were addressed

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and state the result at level one, level two, and level three. **ATTACH GRIEVANCES AND RESPONSES:**

LEVEL 1 hindered and obstructed by prison official

LEVEL 2 denied/rejected as untimely

LEVEL 3 denied / rejected prison official mixed up Wardens response
(See Exhibit 1)

IV. **PREVIOUS LAWSUITS AND ADMINISTRATIVE REMEDIES**

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action? ☐ Yes ☒ No

B. If your answer is "YES", describe each lawsuit in the space below. If there is more than one lawsuit, describe additional lawsuits using the same format on a separate piece of paper which you should attach and label: "IV PREVIOUS LAWSUITS"

1. Parties to this previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court: _____
(If federal court, name the district; if state court, name the county)

3. Case Number: _____

4. Basic Claim Made/Issues Raised: _____

5. Name of Judge(s) to whom case was assigned: _____

6. Disposition: _____
(For example, was the case dismissed? Appealed? Pending?)

7. Approximate date of filing lawsuit: _____

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8. Approximate date of disposition. Attach Copies: _____

C. Did you seek informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part B?

☒ Yes ☒ No

D. If your answer is "YES," briefly describe how relief was sought and the result. If your answer is "NO," explain why administrative relief was not sought.

Filed a request under the Tort Claims Act

E. Did you exhaust available administrative remedies?

☐ Yes ☐ No

F. If your answer is "YES," briefly explain the steps taken and attach proof of exhaustion. If your answer is "NO," briefly explain why administrative remedies were not exhausted.

G. If you are requesting to proceed in this action *in forma pauperis* under 28 U.S.C. § 1915, list each civil action or appeal you filed in any court of the United States while you were incarcerated or detained in any facility that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using the same format on a separate sheet of paper which you should attach and label "G. PREVIOUSLY DISMISSED ACTIONS OR APPEALS"

1. Parties to previous lawsuit:

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Plaintiff(s): _____

Defendant(s): _____

2. Name and location of court and case number:

3. Grounds for dismissal: ☐ frivolous ☐ malicious
☐ failure to state a claim upon which relief may be granted

4. Approximate date of filing lawsuit: _____

5. Approximate date of disposition: _____

V. STATEMENT OF CLAIM

State here, as **BRIEFLY** as possible, the facts of your case. Describe what each defendant did to violate your constitutional rights. **You must include allegations of specific wrongful conduct as to EACH and EVERY defendant in the complaint.** Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, you must number and set forth each claim in a separate paragraph. **UNRELATED CLAIMS MUST BE RAISED IN SEPARATE COMPLAINTS WITH ADDITIONAL FILING FEES. NO MORE THAN FIVE (5) TYPED OR TEN (10) NEATLY PRINTED PAGES MAY BE ATTACHED TO THIS COMPLAINT. (LR PL 3.4.4)**

CLAIM 1: That my Constitutional Rights were violated under the
Eighth Amendment when officers afflicted cruel and unusual
punishment by placing me in excessively tightened handcuffs and
wrist chain.

Supporting Facts: On February 8, 2019 while housed at the

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United States Penitentiary in Bruceton Mills, West Virginia. SHU officers put me in ambulatory restraints that were excessively tight causing permanent marks and lacerations to wrist and torso. The officer name is unknown but acted in individual capacity

CLAIM 2: Prison officials at USP Hazelton hindered the administrative remedy process by failing to provide necessary forms and when submitted hand drafted form Unit Manager Jones failed to process BP-8 within 20 day filing period. Unit Manager Jones acted in his individual capacity

Supporting Facts: I gave Unit manager Jones a BP-8 on 2-28-19 regarding my placement in ambulatory restraints that were too tight and he failed to process it. I again submitted a handwritten BP-8 on 3-20-19 and it was also not filed

CLAIM 3: Health Services Administrator B. Friend acted deliberately indifferent to my serious medical needs by failing to order prison guards to loosen ambulatory restraints after observing lacerations from handcuffs and wrist chains.

Supporting Facts: On February 9, 2019, Health Services Administrator acting in an individual capacity refused to order Lt. Abdel-Aziz to remove restraints at 6:00 am 2 hour restraint check after visibly noticing lacerations to wrists and torso that has caused permanent nerve damage in both hands

CLAIM 4: The torture committed by prison staff at USP Hazelton stemming from placement in ambulatory restraints caused me to having symptoms associated with Post-Traumatic Stress Syndrome

Supporting Facts: Between February 8-9 of 2019 I was tortured by prison officials, subjected to sleep deprivation, denial of food and

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drinks which subsequently caused extreme mood swings, irritability, jumpiness, lack of sleep. I've been diagnosed subsequent to February 8, 2019 with Post-traumatic Stress Syndrome.

CLAIM 5: _____

Supporting Facts: _____

VI. INJURY

Describe **BRIEFLY and SPECIFICALLY** how you have been injured and the exact nature of your damages.

Physical nerve damage to both wrists, exacerbation of breathing problems from asthma, Post-traumatic Stress Syndrome

VII. RELIEF

State **BRIEFLY and EXACTLY** what you want the Court to do for you. *Make no legal arguments. Cite no cases or statutes.*

To have a jury trial on to have a verdict or settlement in the amount of \$3,000,000.00 for punitive & compensatory damages, as well as the maximum for nominal damages for the intentional torture inflicted by prison officials.

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DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and accurate. Title 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at U.S.M.C.F.P. Springfield
P.O. Box 4000
Springfield, MO 65801 on 8-17-20.
(Location) (Date)

Melih A. El-Alami
Your Signature